



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Retirement Systems

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: WAC 415-108-805 and 415-112-555 are being adopted to implement Chapter 85, laws of 2004, which entitles eligible TRS Plan 1 and PERS Plan 1 retirees and beneficiaries to a minimum benefit.

Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 41.50.050(5)

Other authority : For WAC 415-108-805: RCW 41.40.1984 For WAC 415-112-555: RCW 41.32.4851

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-17-077 on August 13, 2004.

Describe any changes other than editing from proposed to adopted version: No changes.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: September 23, 2004

NAME (TYPE OR PRINT)

Maureen Westgard

SIGNATURE

TITLE

Deputy Director

CODE REVISER USE ONLY

Filed with the Office of the Code Reviser

September 23, 2004

WSR 04-20-004

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>2</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 415-108-805 What is the PERS Plan 1 "adjusted minimum benefit"? RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.

(1) **Do I qualify for the adjusted minimum benefit?**

(a) Except as provided in (b) of this subsection:

(i) You qualify if you are a PERS Plan 1 retiree and you:

(A) Have at least twenty-five years of PERS service credit;

(B) Have been retired at least twenty years; and

(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.

(ii) You qualify if you are a PERS Plan 1 member's beneficiary, as defined in RCW 41.40.010 (14)(a), and:

(A) The member had at least twenty-five years of PERS service credit;

(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and

(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.

(b) You do not qualify if you are a retiree or beneficiary who receives a duty disability retirement allowance under RCW 41.40.220(1) or a statewide cities employee's retirement duty disability retirement allowance under RCW 41.44.170 (3) or (5).

(2) **How is the amount of the adjusted minimum benefit calculated?** The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

(3) **What factors are used to calculate the amount of the adjusted minimum benefit?** The factors used to calculate the minimum benefit are:

(a) Annuity withdrawal;

(b) Early retirement;

(c) Automatic cost of living (COLA) increases chosen at retirement;

(d) Joint survivor option chosen at retirement;

(e) Extra contributions made by the member;

(f) Survivor percentage. See Example 2 in this subsection.

Example 1: At the time of retirement, Bill withdrew his contributions and chose a joint and 50%

survivor option, with Betty as his beneficiary. The one thousand dollar minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, as follows:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	\$731.00

Example 2: Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00
Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.

(4) **If the adjusted minimum benefit is less than my current benefit, will my benefit be reduced?** No, the department will compare the amount of the adjusted minimum benefit to your current benefit. You will always receive the higher of the two benefits.

(5) **If I qualify for the adjusted minimum benefit, when will I begin to receive the higher benefit?**

(a) If you meet the requirements as of July 1, 2004, you will begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of July 2004.

(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

(6) **Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit?** No. Under the

provisions of RCW 41.40.1984, the adjusted minimum benefit will not be adjusted for COLAs.

(7) **How long will I continue to receive the adjusted minimum benefit?** You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

Example: Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

	Regular Benefit (including COLAs)	Adjusted Minimum Benefit (Fixed - No COLAs added)	Actual Amount Joe Received
2004	\$806.25 (benefit + COLAs)	\$870 (\$1,000 x .87)	\$870
2005	\$830.44 (\$806.25 + COLA)	\$870 (\$1,000 x .87)	\$870
2006	\$855.35 (\$830.44 + COLA)	\$870 (\$1,000 x .87)	\$870
2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

This example assumes a three percent annual COLA.

NEW SECTION

WAC 415-112-555 What is the TRS Plan 1 "adjusted minimum benefit"? RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.

(1) **Do I qualify for the adjusted minimum benefit?**

(a) Except as provided in (b) of this subsection:

(i) You qualify if you are a TRS Plan 1 retiree and you:

(A) Have at least twenty-five years of TRS service credit;

(B) Have been retired at least twenty years; and

(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.

(ii) You qualify if you are a TRS Plan 1 member's beneficiary, as defined in RCW 41.32.010 (5)(a), and:

(A) The member had at least twenty-five years of TRS service credit;

(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and

(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.

(b) You do not qualify if you are receiving a temporary disability benefit under RCW 41.32.540.

(2) **How is the amount of the adjusted minimum benefit calculated?** The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

(3) **What factors are used to calculate the amount of the adjusted minimum benefit?** The factors used to calculate the minimum benefit are:

(a) Annuity withdrawal;

(b) Early retirement;

(c) Automatic cost of living (COLA) increases chosen at retirement;

(d) Joint survivor option chosen at retirement;

(e) Extra contributions made by the member;

(f) Survivor percentage. See Example 2 in this subsection.

Example 1: At the time of retirement, Bill withdrew his contributions and chose a joint and 50% survivor option, with Betty as his beneficiary. The \$1,000 minimum benefit will be adjusted by

the same factors that were used to calculate Bill's original benefit, as follows:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	\$731.00

Example 2: Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00
Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.

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(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

(6) **Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit?** No. Under the provisions of RCW 41.32.4851, the adjusted minimum benefit will not be adjusted for COLAs.

(7) **How long will I continue to receive the adjusted minimum benefit?** You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

Example: Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

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2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

This example assumes a three percent annual COLA.